S.B. CR.MISC.BAIL APPL.NO.7292/2007.

Mukesh
Vs.
State

Date of order : 2/11/2007.

**HON'BLE MR.JUSTICE MOHAMMAD RAFIQ**

Shri Mohar Pal Meena for the petitioner.
Shri Harshvardhan Nandvana PP for the State.

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Heard learned counsel for the petitioner, learned Public Prosecutor for the State and perused the relevant documents placed before me.

Learned counsel for the petitioner has argued that the allegation against the petitioner is of committing rape upon prosecutrix aged about 40 years and that from the statement of the prosecutrix recorded under Section 164 Cr.P.C., it would be evident hat prosecutrix went with accused out of her free will. Learned counsel for the petitioner pointedly referred to the statement of her husband Ramprasad in which he stated that his son came to him enquiring about the prosecutrix and informed that she had gone with Mukesh. When both of them went to search her, his wife was found sitting on the boundary of the field and then he saw accused-petitioner Mukesh running from

the place of incident but he did not see him committing rape on the prosecutrix. He was angry with his wife and even subjected her to beating. The prosecutrix is an aged woman and mother of three children and there was absolutely no sign of resistance inasmuch as, no injury, even abrasion, was sustained by her. On the spot of incident also, there were no such signs which could show that the prosecutrix resisted. Challan has already been filed and trial of the case will take long. Petitioner was arrested on 21/9/2007 and ever since then he is behind the bars. There is no previous criminal case ever registered against him.

Learned Public Prosecutor has opposed the bail application and has argued that in view of seriousness of allegations against the petitioner, he is not entitled to be enlarged on bail.

Without expressing any opinion on the merits of the case but taking into consideration the aforesaid arguments, I deem it appropriate to enlarge the petitioner on bail during trial.

In the result, this bail application u/S.439 Cr.P.C. is allowed and it is directed that petitioner Mukesh S/o Kaluram shall be released on bail in F.I.R. No.114/2007 P.S. Reni, Distt.Alwar for offence under Section 376 IPC subject to his furnishing a personal bond in the sum of Rs.30,000/- together with two sureties in the sum of Rs.15,000/- each to the satisfaction of the trial Court for his appearance before that court on all dates of hearing until conclusion of the trial.

**(MOHAMMAD RAFIQ), J.**

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